

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

DEJARNETTE BLANCHARD
BABANGIDA ADAM
KENNETH BLANCHARD
TERRY BOOTH
aka "Shiesty"
AUSTIN COBURN
NORMAN DAVIS
LAWRENCE GRAY
TERRY JAMES
CLINTON MCLAUGHLIN
TAEMON POSEY
DEMETRIUS REYNOLDS
MARKEL SAYLES
GILBERT SMITH
ORIES SMITH
DENZEL TOMLIN
DAMOR WILLIAMS

Criminal No. 23-180

[UNDER SEAL]

FILED

AUG 15 2023

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

INDICTMENT MEMORANDUM

AND NOW comes the United States of America, by its attorneys, Eric G. Olshan, United States Attorney for the Western District of Pennsylvania, and Jerome A. Moschetta, Assistant United States Attorney for said District, and submits this Indictment Memorandum to the Court:

I. THE INDICTMENT

A federal grand jury returned a nineteen-count indictment against the above-named defendants for alleged violations of federal law:

<u>COUNT</u>	<u>OFFENSE/DATE</u>	<u>TITLE/SECTION</u>	<u>DEFENDANTS CHARGED</u>
1	Conspiracy to possess with intent to distribute and distribute a Schedule II controlled substance December 2022 to August 2023	21 U.S.C. § 846	D. BLANCHARD: 400 grams or more of fentanyl and a quantity of cocaine base ADAM: 400 grams or more of fentanyl
			K. BLANCHARD: 40 grams or more of fentanyl and a quantity of cocaine base
			BOOTH: 40 grams or more of fentanyl and a quantity of cocaine base
			COBURN: 40 grams or more of fentanyl
			DAVIS: 40 grams or more of fentanyl
			GRAY: 40 grams or more of fentanyl
			JAMES: 40 grams or more of fentanyl
			MCLAUGHLIN: a quantity of fentanyl
			POSEY: 40 grams or more of fentanyl and a quantity of cocaine base

		REYNOLDS: 400 grams or more of fentanyl and a quantity of cocaine base
		SAYLES: 40 grams or more of fentanyl and a quantity of cocaine base
		G. SMITH: 40 grams or more of fentanyl
		O. SMITH: 400 grams or more of fentanyl and a quantity of cocaine base
		TOMLIN: 40 grams or more of fentanyl
		WILLIAMS: 40 grams or more of fentanyl and a quantity of cocaine base
2	Possession with intent to distribute 40 grams or more of fentanyl and 500 grams or more of cocaine	21 U.S.C. §§ 841(a)(1), 841(b)(1)(B)(ii), and 841(b)(1)(B)(vi)
	June 16, 2023	D. BLANCHARD
3 and 5	Possession of a firearm and ammunition by a convicted felon	18 U.S.C. § 922(g)(1)
	June 16, 2023	D. BLANCHARD

4	Possession of a firearm in furtherance of a drug trafficking offense	18 U.S.C. § 924(c)(1)(A)(i)	D. BLANCHARD
	June 16, 2023		
6	Possession with intent to distribute 40 grams or more of fentanyl and a quantity of cocaine base	21 U.S.C. §§ 841(a)(1), 841(b)(1)(B)(vi), and 841(b)(1)(C)	D. BLANCHARD K. BLANCHARD
	June 16, 2023		
7	Possession with intent to distribute 40 grams or more of fentanyl	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(vi)	ADAM
	April 20, 2023		
8	Possession of a firearm in furtherance of a drug trafficking offense	18 U.S.C. § 924(c)(1)(A)(i)	ADAM
	April 20, 2023		
9	Possession with intent to distribute a quantity of fentanyl and a quantity of cocaine base	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)	BOOTH
	March 18, 2023		
10	Possession with intent to distribute a quantity of fentanyl, a quantity of cocaine, and a quantity of cocaine base	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)	DAVIS
	June 9, 2023		

11	Possession of a firearm and ammunition by a convicted felon	18 U.S.C. §§ 922(g)(1) and 924(e)	DAVIS
June 9, 2023			
12	Possession of a firearm in furtherance of a drug trafficking offense	18 U.S.C. § 924(c)(1)(A)(i)	DAVIS
June 9, 2023			
13	Possession with intent to distribute and distribution of a quantity of fentanyl	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)	JAMES
August 3, 2023			
14	Possession of a firearm in furtherance of a drug trafficking offense	18 U.S.C. § 924(c)(1)(A)(i)	JAMES
August 3, 2023			
15	Possession with intent to distribute 40 grams or more of fentanyl	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(vi)	REYNOLDS
July 27, 2023			
16	Possession of a firearm in furtherance of a drug trafficking offense	18 U.S.C. § 924(c)(1)(A)(i)	REYNOLDS
July 27, 2023			
17	Possession with intent to distribute a quantity of fentanyl	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)	TOMLIN
June 2, 2023			

18 Possession of a firearm and 18 U.S.C. § 922(g)(1) TOMLIN
ammunition by a convicted felon

June 2, 2023

19 Possession of a firearm in 18 U.S.C. § 924(c)(1)(A)(i) TOMLIN
furtherance of a drug trafficking offense

June 2, 2023

II. ELEMENTS OF THE OFFENSES

A. As to Count 1:

In order for the crime of conspiracy to distribute and possess with intent to distribute a Schedule II controlled substance, in violation of 21 U.S.C. § 846, to be established, the government must prove the first four of the following essential elements beyond a reasonable doubt. To hold a particular defendant responsible, under 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A)(vi), and/or 841(b)(1)(B)(vi), for specified quantities of controlled substances as charged in Count One, the United States must prove all five of the following essential elements beyond a reasonable doubt:

1. That two or more persons agreed to distribute and possess with intent to distribute a controlled substance.
2. That the defendant was a party to or member of that agreement.
3. That the defendant joined the agreement or conspiracy knowing of its objectives to distribute and possess with intent to distribute a controlled substance and intending to join together with at least one other alleged conspirator to achieve those objectives; that is, that the defendant and at least one other alleged conspirator shared a unity of purpose and the intent to achieve those objectives.

4. That fentanyl and/or cocaine base are Schedule II controlled substances, pursuant to 21 U.S.C. § 812(c), Schedule II.

5. That the defendant is responsible, as a result of the defendant's own conduct and the conduct of conspirators that was reasonably foreseeable to the defendant, for the amount of the controlled substance(s) attributed to the defendant in Count One of the Indictment.

(Apprendi v. New Jersey, 530 U.S. 466 (2000); Alleyne v. United States, 133 S. Ct. 2151 (2013)).

Third Circuit Model Criminal Jury Instruction 6.21.846B (modified).

B. As to Counts 2, 6, 7, 9, 10, 13, 15 and 17:

In order for the crime of possession with intent to distribute and/or distribution of a controlled substance, in violation of 21 U.S.C. § 841(a)(1), to be established, the government must prove the first three of the following essential elements beyond a reasonable doubt. To hold a particular defendant responsible under 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B)(ii), and/or 841(b)(1)(B)(vi) for specified quantities of controlled substances as charged in Counts Two, Six, Seven, and Fifteen, the United States must prove all of the following essential elements beyond a reasonable doubt:

1. That on or about the date(s) set forth, the defendant possessed with intent to distribute and/or distribution of a controlled substance charged in the Indictment.

United States v. Lartey, 716 F.2d 955, 967 (2d Cir. 1983); United States v. Wright, 593 F.2d 105, 107-108 (9th Cir. 1979); United States v. Tighe, 551 F.2d 18, 21 (3d Cir.), cert. denied, 434 U.S. 823 (1977).

2. That the defendant did so knowingly and intentionally.

United States v. Jewell, 532 F.2d 697, 699-700 (9th Cir.), cert. denied, 426 U.S. 951 (1976); United

States v. Kairouz, 751 F.2d 467, 469 (1st Cir. 1985).

3. That fentanyl and/or cocaine and/or cocaine base is a Schedule II controlled substance, pursuant to 21 U.S.C. § 812(c), Schedule II.
4. That the mixture or substance containing a detectable amount of fentanyl was 40 grams or more; and/or that the mixture or substance containing a detectable amount of cocaine was 500 grams or more. 21 U.S.C. §§ 841(b)(1)(B)(ii) and 841(b)(1)(B)(vi).

Apprendi v. New Jersey, 530 U.S. 466 (2000).

C. As to Counts 3, 5, 11, and 18:

In order for the crime of possession of a firearm and ammunition by a convicted felon, in violation of 18 U.S.C. § 922(g)(1), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. The defendant knowingly possessed the firearm and/or ammunition described in the Indictment;
2. At the time of the charged act, the defendant had been convicted of a felony, that is, a crime punishable by imprisonment for a term exceeding one year;
3. At the time of the charged act, the defendant knew that he had been convicted of a felony, that is, a crime punishable by imprisonment for a term exceeding one year; and
4. The defendant's possession was in or affecting interstate or foreign commerce.

Third Circuit Model Criminal Jury Instruction 6.18.922G (modified).

D. As to Counts 4, 8, 12, 14, 16, and 19:

In order for the crime of possession of a firearm in furtherance of a drug trafficking offense, in violation of 18 U.S.C. § 924(c)(1)(A)(i), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That the defendant committed a drug trafficking crime as defined in 18 U.S.C. § 924(c)(2); and
2. That the defendant knowingly possessed a firearm in furtherance of this crime.

III. PENALTIES

A. As to Count 1: conspiracy to distribute and possess with intent to distribute 400 grams or more of fentanyl (21 U.S.C. § 846):

1. A term of imprisonment of not less than ten (10) years to a maximum of life.
2. A fine not to exceed \$10,000,000.
3. A term of supervised release of at least five (5) years.

If the defendant has a prior conviction for a serious drug felony or a serious violent felony that is final:

1. A term of imprisonment of not less than fifteen (15) years to a maximum of life.
2. A fine not to exceed \$20,000,000.
3. A term of supervised release of at least ten (10) years.

If the defendant has two (2) or more prior convictions for a serious drug felony or a serious violent felony that is final:

1. A term of imprisonment of at least 25 years to a maximum of life.

2. A fine not to exceed \$20,000,000.

B. As to Counts 1, 2, 6, 7, and 15: conspiracy to distribute and possess with intent to distribute 40 grams or more of fentanyl; possession with intent to distribute 40 grams or more of fentanyl; possession with intent to distribute 500 grams or more of cocaine (21 U.S.C. §§ 846, 841(a)(1), 841(b)(1)(B)(ii), and 841(b)(1)(B)(vi)):

1. A term of imprisonment of not less than five (5) years to a maximum of forty (40) years.
2. A fine not to exceed \$5,000,000.
3. A term of supervised release of at least four (4) years.

If the defendant has a prior conviction for a serious drug felony or a serious violent felony that is final:

1. A term of imprisonment of not less than ten (10) years to a maximum of life.
2. A fine not to exceed \$8,000,000.
3. A term of supervised release of at least eight (8) years.

C. As to Counts 1, 6, 9, 10, 13, and 17: conspiracy to distribute and possess with intent to distribute a quantity of fentanyl and/or a quantity of cocaine base; possession with intent to distribute a quantity of fentanyl, and/or a quantity of cocaine, and/or a quantity of cocaine base (21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(C)):

1. A term of imprisonment of not more than twenty (20) years.
2. A fine not to exceed \$1,000,000.
3. A term of supervised release of at least three (3) years.

For a second or subsequent felony drug conviction that is final, whether federal,

state, or foreign:

1. A term of imprisonment of not more than thirty (30) years.
2. A fine not to exceed \$2,000,000.
3. A term of supervised release of at least six (6) years.

D. As to Counts 3, 5, 11, and 18: possession of a firearm and ammunition

by a convicted felon (18 U.S.C. § 922(g)(1)):

1. A term of imprisonment of not more than fifteen (15) years (18 U.S.C. § 924(a)(8)). However, if it is determined that the defendant has three previous convictions for a violent felony or a serious drug offense, or both, that were committed on occasions different from one another, then pursuant to 18 U.S.C. § 924(e), the term of imprisonment is not less than fifteen (15) years to a maximum of life imprisonment.
2. A fine of not more than \$250,000 (18 U.S.C. § 3571(b)(3)).
3. A term of supervised release of not more than three (3) years (or five (5) years if 18 U.S.C. § 924(e) applies) (18 U.S.C. § 3583).

E. As to Counts 4, 8, 12, 14, 16, and 19: possession of a firearm in furtherance of a drug trafficking offense (18 U.S.C. § 924(c)(1)(A)(i)):

1. A term of imprisonment of not less than five (5) years nor more than life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed run concurrently with any other term of imprisonment, including that imposed for the drug trafficking crime (18 U.S.C. § 924(c)(1)).

United States v. Gray, 260 F.3d 1267, 1281 (11th Cir. 2001); United States v. Sandoval, 241 F.3d 549, 550 (7th Cir. 2001).

2. A fine of not more than \$250,000 (18 U.S.C. § 3571(b)(3)).

3. A term of supervised release of not more than five (5) years (18 U.S.C. §§ 3583(b)(1), 3559(a)(1)).

IV. MANDATORY SPECIAL ASSESSMENT

A mandatory special assessment of \$100.00 must be imposed at each count upon which the defendant is convicted, pursuant to 18 U.S.C. § 3013.

V. RESTITUTION

Not applicable in this case.

VI. FORFEITURE

As set forth in the Indictment, forfeiture may be applicable in this case.

Respectfully submitted,

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